

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCUS COSSETTE,

Plaintiff,

-against-

DOWNSTATE CORRECTIONAL FACILITY, *et al.*,

Defendants.

20-CV-6427 (LLS)

ORDER

LOUIS L. STANTON, United States District Judge:

This action arises out of a complaint Plaintiff filed in the United States District Court for the Western District of New York, in which that court severed claims arising in this District and transferred the claims to this Court.¹ (See ECF No. 1, 11.) By order dated August 26, 2020, the Court directed Plaintiff, who is currently incarcerated at Attica Correctional Facility, to either pay the \$400.00 in fees or submit an *in forma pauperis* (IFP) application and prisoner authorization. (ECF No. 15.) The Court noted in the order that “[a]lthough the Western District granted Plaintiff’s IFP application, the severed claims constitute[d] a new civil action.” (*Id.* at 1.)

Plaintiff complied with the order, but he submitted a letter asking whether he would “have to pay an additional \$350.00 for the docket number within your court or am I just paying the \$350.00 court fee from the Western District of New York.” (ECF No. 18, at 2.) As explained by the Court in the August 26, 2020 order, Plaintiff is required to pay a second filing fee for his

¹ The Western District transferred the claims to the United States District Court for the Northern District of New York, and the Northern District transferred the claims here. (See ECF No. 11.)

new action in this Court. (See ECF No. 15, at 1.) Thus, after the Court grants his IFP application, his prison facility will deduct payments from his account whenever his balance exceeds \$10.00.²

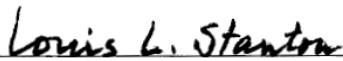
CONCLUSION

In light of Plaintiff's letter, the Court grants Plaintiff 30 days from the date of this order to notify the Court whether he intends to proceed with this action or if he would prefer to withdraw the action. If the Court does not receive a response within 30 days of the date of this order, the Court shall grant Plaintiff's IFP application and process the case in accordance with the procedures of the Clerk's Office.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: October 26, 2020
New York, New York



Louis L. Stanton
U.S.D.J.

² The agency having custody of the prisoner shall forward payments from the prisoner's account to the Clerk of Court each time the amount in the account exceeds \$10, until the filing fees are paid. 28 U.S.C. § 1915(b)(2); *see also* In the Matter of the Prison Litigation Reform Act, Second Amended Standing Order, M10-468 (S.D.N.Y. May 26, 2010) (requiring agencies to calculate and remit the statutory fees for litigants in their custody).